

SERVED : November 5, 1992

NTSB Order No. EA-3722

UNITED STATES OF AMERICA
NATIONAL TRANSPORTATION SAFETY BOARD
WASHINGTON, D.C.

Adopted by the NATIONAL TRANSPORTATION SAFETY BOARD
at its office in Washington, D.C.
on the 29th day of October, 1992

THOMAS C. RICHARDS,
Administrator,
Federal Aviation Administration,

Complainant,

Docket SE-9850

v.

NORMAN SMITH ,

Respondent.

ORDER DENYING RECONSIDERATION

Respondent, appearing pro se, has filed a letter-petition for reconsideration of our order served August 20, 1992 (NTSB Order EA-3639). In that order, we affirmed an order of an administrative law judge finding that respondent had violated 14 C.F.R. 91.105(c) and 91.9, and we affirmed the sanction imposed by the law judge -- a 60-day suspension of respondent's private pilot certificate.

We have carefully reviewed respondent's letter, and find in it no basis to modify our August decision. Respondent offers no valid reason to amend findings of fact made by the law judge, some of which were based on official records.¹ Respondent's challenges to our analysis are equally unconvincing. Respondent

¹E.g., respondent disputes official weather reports.

knew he needed a clearance, yet he proceeded into the control zone without one. And, even assuming arguendo that the controller was at fault (an assumption we have rejected), respondent offers no reason to reverse the law judge's finding that the controller's omission does not excuse respondent's conduct. The 60-day suspension is not inconsistent with precedent, respondent's economic reliance on his certificate not being a factor we take into consideration.²

Finally, respondent also suggests that his case be reviewed afresh in view of statutory changes. The referred-to changes made by the FAA Civil Penalty Administrative Assessment Act of 1992 (P.L. No. 102-345) do not bear on this proceeding, as it does not involve the assessment of a civil penalty.

ACCORDINGLY, IT IS ORDERED THAT:

Respondent's petition for reconsideration is denied.

VOGT, Chairman, COUGHLIN, Vice Chairman, LAUBER, HART, and HAMMERSCHMIDT, Members of the Board, concurred in the above order.

²The Administrator reads too much into our statements in Administrator v. National Air College, NTSB order EA-3079 (1990).